

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

PATRICIA CUNNINGHAM,

Plaintiff,

v.

Case No. 2:20-cv-913-SPC-NPM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

Before the Court are the Opposed Motion for Stay of Proceedings (Doc. 14) and Response (Doc. 16). In this Social Security case, Defendant requests the Court stay the proceedings for ninety days or until such time as the Agency regains capacity to produce a certified transcript of the administrative record necessary to draft an answer and adjudicate the case. (Doc. 14, p. 1). Due to the current situation in this country, Defendant represents the Agency has transitioned to a telework environment, but encountered difficulties that impact the operations of the Social Security Administration's Office of Appellate Operations. (*Id.*, pp. 1-4). Defendant has implemented new measures but continues to be back-logged. (*Id.*). Plaintiff opposes the ninety-day stay, arguing Defendant had not been diligent in implementing measures to improve the time to complete the certified transcript.

(Doc. 16). If the motion is granted, Plaintiff requests Defendant be given no more than thirty additional days to file the certified transcript and answer. (*Id.*, p. 3).

A court has broad discretion whether to stay a proceeding “as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706-707 (1997). The court must weigh the benefits of the stay against any harms of delay. *Id.* at 707. Here, the Commissioner has provided good cause to extend the deadline to file the certified transcript and answer. But the Court finds a ninety-day extension would cause undue delay. The Court will extend the deadline to file the certified transcript and answer by sixty days.

Accordingly, the Opposed Motion for Stay of Proceedings (Doc. 11) is **GRANTED in part**. The Court extends the deadline for Defendant to file a certified transcript and answer to **April 17, 2021**.

DONE and **ORDERED** in Fort Myers, Florida on February 22, 2021.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE